

APPEAL NO. 023048
FILED JANUARY 27, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 8, 2002. In Texas Workers' Compensation Commission Appeal No. 021162-s, decided June 27, 2002, the hearing officer's decision that the respondent (self-insured) is entitled to reimbursement of salary supplementation payments paid to the appellant (claimant) during his entitlement to temporary income benefits (TIBs) from the claimant's impairment income benefits (IIBs) was reversed and remanded for further consideration as to whether Section 504.001 *et seq.*, relating to self-insured political subdivisions and Section 143.073 of the Local Government Code apply to the facts of this case. A hearing on remand was held on October 21, 2002, and the hearing officer reached the same decision. The claimant appealed, and the file does not contain a response from the self-insured.

DECISION

Affirmed.

The facts of this case are fully set out in Appeal No. 021162-s, *supra*, and will not be repeated herein. It is undisputed that the claimant was employed as a police officer for the self-insured when he sustained a compensable injury on _____. The sole issue to be decided is whether the self-insured is entitled to reimbursement for salary supplementation payments paid to the claimant by the self-insured while he was entitled to TIBs, from his IIBs. The claimant argues that because he is a police officer he is a member of a special class. Section 504.051 provides that benefits provided under this chapter shall be offset to the extent applicable, for any incapacity received as provided by Chapter 143, Local Government Code. Section 143.073 of the Local Government Code provides, in part, that a municipality shall provide to a fire fighter or police officer a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the leave shall continue for at least one year. Section 143.002 of the Local Government Code states:

This chapter applies only to a municipality:

- (1) That:
 - (A) has a population of 10,000 or more;
 - (B) has a paid fire department and police department; and
 - (C) has voted to adopt this chapter or the law codified by this chapter.

At the hearing on remand, the self-insured's assistant city attorney presented argument and authority to show that Chapter 143 of the Local Government Code does not apply to this case because the self-insured is a home rule city and has never

adopted the chapter or the law codified therein. The claimant presented no evidence to contradict the self-insured's position on this issue. We find the hearing officer correctly determined that Section 143.073 of the Local Government Code does not apply to the facts of this case.

The claimant argues that the hearing officer erred in determining that the payments made to the claimant were in the form of salary supplementation. Instead, the claimant argues, these payments were salary continuation as defined by Section 408.003(g). The claimant complains that the hearing officer improperly limited his consideration at the remand hearing to the applicability of Section 143.073. We find no merit in these assertions. First, the hearing officer's determination that the payments made to the claimant were salary supplementation was not reversed in Appeal No. 021162-s, *supra*. The characterization of these payments presented a question of fact for the hearing officer to resolve. We find sufficient evidence in the record to support the hearing officer's determination that the payments made to the claimant were in the form of salary supplementation. Second, the hearing officer made it clear at the beginning of the hearing on remand that the sole issue to be decided was the applicability of Section 143.073 of the Local Government Code, and neither party objected.

We likewise find no merit in the claimant's assertion that the "carrier" never remitted the amount of the reduction to the employer as required by Section 408.127(b). In the instant case, the "carrier" and the employer are one and the same since the employer is a self-insured governmental entity.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SA
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Daniel R. Barry
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Thomas A. Knapp
Appeals Judge